

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SHAUN LEARY,
PLAINTIFF,

CASE NO. 03-60021

Vs.

HONORABLE MARIANNE O. BATTANI
HONORABLE STEVEN D. PEPE

LIVINGSTON COUNTY, ET AL.,
DEFENDANT(S).

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ORDER DENYING DEFENDANTS' MOTIONS TO STRIKE DEPOSITION TESTIMONY OF SANDY GLOVER (DKT. ## 64, 72, 80), REQUIRING SANDY GLOVER TO SUBMIT TO A REASONABLE DEPOSITION AND GRANTING PLAINTIFF'S MOTION TO REINSTATE ACTION AS TO DEFENDANT JAMES KAMINIECKI (DKT. # 63)

The above-referenced motions were referred for hearing and determination pursuant to 28 U.S.C. 636 (b)(1)(A). Following a May 31, 2006, telephonic hearing IT IS ORDERED:

- 1.) Plaintiff's motion to reinstate his action against Defendant James Kaminiecki is GRANTED, provided service or a waiver thereof can be accomplished by July 3, 2006.
- 2.) Defendant Livingston County shall provide by June 6, 2006, the last known address for Defendant Kaminiecki to Plaintiff's counsel subject to attorneys eyes only protection and for use only in effectuating service under this Order.
- 3.) Defendant Kaminiecki shall be allowed to file a dispositive motion 30 days after he is served with or waives service of the complaint. If service is not waived, the cost of personal service may be imposed on Defendant Kaminiecki under the court rules.
- 4.) Defendants' motions to strike the deposition testimony of Sandy Glover are DENIED for summary judgment purposes and DENIED without prejudice to a renewed motion for trial.
- 5.) Sandy Glover was found guilty of the assault on Plaintiff and has exhausted his

appeals with regard to his conviction. Therefore, it is assumed that he has no grounds on which to invoke the Fifth Amendment right against self-incrimination in order to avoid answering the parties' questions regarding the facts related to and surrounding the assault on Plaintiff because Sandy Glover faces no further criminal liability regarding that incident for which criminal jeopardy has already attached and been imposed on Sandy Glover. Mr. Glover is ordered to reappear for his continued deposition at the Thumb Area Correctional Facility and respond to all reasonable questions posed to him regarding his knowledge of the assault of Plaintiff and the events/circumstances surrounding the assault, including but not limited to the nature and location of any notes or other documents that he has or had in his possession, of which he is aware, or over which he retains effective control, that pertain to Plaintiff, any of the Defendants and/or the assault. Mr. Glover may be held in contempt, have financial liability imposed and his prison account garnished for costs; including deposition costs, if he unreasonably refuses to cooperate and give testimony.

6.) The Michigan Department of Corrections shall make arrangements so that the parties may contact and communicate with the undersigned via telephone during Mr. Glover's deposition in order to resolve any disputes or questions that may occur during the deposition.

SO ORDERED.

Dated: 31 May 2006
Ann Arbor, MI

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that a copy of this order was served upon the attorneys of record by electronic means on May 31, 2006.

s/William J. Barkholz
Courtroom Deputy Clerk